

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

William Randolph ABERNETHY

Group Art Unit: 2166

Serial No. 09/672,838

Examiner: Florian M. Zeender

Filed: September 29, 2000

Confirmation No: 9563

For: A BASKET TRADING SYSTEM HAVING AN INTERFACE FOR USER SPECIFICATION
OF GOODS TO BE TRADED AS A UNIT

COMMENTS REGARDING STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The Examiner provided a Statement of Reasons for Allowance in which the Examiner indicated that claim 29 was allowed for certain reasons.

MPEP §1302.14 states, in part:

Where specific reasons are recorded by the examiner, care must be taken to ensure that statements of reasons for allowance (or indication of allowable subject matter) are accurate, precise and do not place unwarranted interpretations, whether broad or narrow upon the claims. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

The reasons for allowance set forth on page 2 of the Notice of Allowability include descriptions and characteristics of selected items of prior art. It is submitted that such characterizations are not proper "reasons for allowance" as directed by 37 C.F.R. §1.104 and as explained in M.P.E.P. §1302.14. In particular, a discussion of the prior art is specifically identified in Example (F) of M.P.E.P. §1302.14 as a statement which is not a suitable reason for allowance.

In the statement, the Examiner characterizes certain features of the identified claim where the Examiner states that the prior art "lacks the teaching". It is submitted that the Examiner's statement is not an accurate quote with respect to the allowed claim. It is further submitted that the claim speaks for itself and should not be interpreted based on the Examiner's characterizations of same. It is submitted that the claim provides its own best evidence as to the reasons for allowance.

It is submitted that the claim is not constrained by such improper comments and statements by the Examiner, and that the claim speaks for itself as to what features are included therein.

In summary, it is submitted that the Examiner's Statement "raises possible misinterpretations... and possible estoppel effects" (M.P.E.P. §1302.14) and is therefore improper and should be disregarded.

Respectfully submitted,

STAAS & HALSEY LLP

Date: June 9, 2006

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